

REFERENCE TITLE: **developmentally disabled pupils; schools**

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
First Regular Session  
2009

## **HB 2358**

Introduced by  
Representative Crandall, Senator Lopez: Representatives Barto, Goodale

**AN ACT**

**AMENDING SECTIONS 15-761, 15-771, 15-901, 15-943, 15-948 AND 43-1089, ARIZONA  
REVISED STATUTES; RELATING TO DEVELOPMENTALLY DISABLED PUPILS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 15-761, Arizona Revised Statutes, is amended to read:

15-761. Definitions

In this article, unless the context otherwise requires:

1. "Autism" means a developmental disability that significantly affects verbal and nonverbal communication and social interaction and that adversely affects educational performance. Characteristics include irregularities and impairments in communication, engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines and unusual responses to sensory experiences. Autism does not include children with characteristics of emotional disability as defined in this section.

2. "Child with a disability":

(a) Means a child who is at least three years but less than twenty-two years of age, who has been evaluated pursuant to section 15-766 and found to have at least one of the following disabilities and who, because of the disability, needs special education and related services:

(i) Autism.

(ii) DEVELOPMENTAL DELAY.

(iii) EARLY CHILDHOOD SEVERE DELAY.

~~(iii)~~ (iv) Emotional disability.

~~(iii)~~ (v) Hearing impairment.

~~(iv)~~ (vi) Other health impairments.

~~(v)~~ (vii) Specific learning disability.

~~(vi)~~ (viii) Mild, moderate or severe mental retardation.

~~(vii)~~ (ix) Multiple disabilities.

~~(viii)~~ (x) Multiple disabilities with severe sensory impairment.

~~(ix)~~ (xi) Orthopedic impairment.

~~(x) Preschool moderate delay.~~

~~(xi) Preschool severe delay.~~

~~(xii) Preschool speech/language delay.~~

~~(xiii)~~ (xii) Speech/language impairment.

~~(xiv)~~ (xiii) Traumatic brain injury.

~~(xv)~~ (xiv) Visual impairment.

(b) Does not include a child if the determinant factor for the classification is one or more of the following:

(i) A lack of appropriate instruction in reading, including essential components of reading instruction.

(ii) A lack of appropriate instruction in mathematics.

(iii) Difficulty in writing, speaking or understanding the English language due to an environmental background in which a language other than English is primarily or exclusively used.

3. "DEVELOPMENTAL DELAY" MEANS PERFORMANCE BY A CHILD WHO IS AT LEAST THREE YEARS OF AGE BUT UNDER TEN YEARS OF AGE ON A NORM-REFERENCED TEST THAT MEASURES AT LEAST ONE AND ONE-HALF OR MORE STANDARD DEVIATIONS BELOW THE MEAN FOR CHILDREN OF THE SAME CHRONOLOGICAL AGE IN TWO OR MORE OF THE FOLLOWING AREAS:

- (a) COGNITIVE DEVELOPMENT.
- (b) PHYSICAL DEVELOPMENT.
- (c) COMMUNICATION DEVELOPMENT.
- (d) SOCIAL OR EMOTIONAL DEVELOPMENT.
- (e) ADAPTIVE DEVELOPMENT.

THE RESULTS OF THE NORM-REFERENCED MEASURE MUST BE CORROBORATED BY INFORMATION FROM A COMPREHENSIVE DEVELOPMENT ASSESSMENT AND FROM PARENTAL INPUT, IF AVAILABLE, AS MEASURED BY A JUDGMENT BASED ASSESSMENT OR SURVEY. IF THERE IS A DISCREPANCY BETWEEN THE MEASURES, THE EVALUATION TEAM SHALL DETERMINE ELIGIBILITY BASED ON A PREPONDERANCE OF THE INFORMATION PRESENTED.

~~3.~~ 4. "Due process hearing" means a fair and impartial administrative hearing conducted by the state educational agency by an impartial administrative law judge in accordance with federal and state law.

5. "EARLY CHILDHOOD SEVERE DELAY" MEANS PERFORMANCE BY A PRESCHOOL CHILD ON A NORM-REFERENCED TEST THAT MEASURES MORE THAN THREE STANDARD DEVIATIONS BELOW THE MEAN FOR CHILDREN OF THE SAME CHRONOLOGICAL AGE IN ONE OR MORE OF THE FOLLOWING AREAS:

- (a) COGNITIVE DEVELOPMENT.
- (b) PHYSICAL DEVELOPMENT.
- (c) COMMUNICATION DEVELOPMENT.
- (d) SOCIAL OR EMOTIONAL DEVELOPMENT.
- (e) ADAPTIVE DEVELOPMENT.

THE RESULTS OF THE NORM-REFERENCED MEASURE MUST BE CORROBORATED BY INFORMATION FROM A COMPREHENSIVE DEVELOPMENT ASSESSMENT AND FROM PARENTAL INPUT, IF AVAILABLE, AS MEASURED BY A JUDGMENT BASED ASSESSMENT OR SURVEY. IF THERE IS A DISCREPANCY BETWEEN THE MEASURES, THE EVALUATION TEAM SHALL DETERMINE ELIGIBILITY BASED ON A PREPONDERANCE OF THE INFORMATION PRESENTED.

~~4.~~ 6. "Educational disadvantage" means a condition which has limited a child's opportunity for educational experience resulting in a child achieving less than a normal level of learning development.

~~5.~~ 7. "Eligibility for special education" means the pupil must have one of the disabilities contained in paragraph 2 of this section and must also require special education services in order to benefit from an educational program.

~~6.~~ 8. "Emotional disability":

(a) Means a condition whereby a child exhibits one or more of the following characteristics over a long period of time and to a marked degree that adversely affects the child's performance in the educational environment:

(i) An inability to learn which cannot be explained by intellectual, sensory or health factors.

(ii) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.

(iii) Inappropriate types of behavior or feelings under normal circumstances.

(iv) A general pervasive mood of unhappiness or depression.

(v) A tendency to develop physical symptoms or fears associated with personal or school problems.

(b) Includes children who are schizophrenic but does not include children who are socially maladjusted unless they are also determined to have an emotional disability as determined by evaluation as provided in section 15-766.

~~7-~~ 9. "Hearing impairment" means a loss of hearing acuity, as determined by evaluation pursuant to section 15-766, which interferes with the child's performance in the educational environment and requires the provision of special education and related services.

~~8-~~ 10. "Home school district" means the school district in which the person resides who has legal custody of the child, as provided in section 15-824, subsection B. If the child is a ward of the state and a specific person does not have legal custody of the child, the home school district is the district that the child last attended or, if the child has not previously attended a public school in this state, the school district within which the child currently resides.

~~9-~~ 11. "Impartial administrative law judge" means an administrative law judge of the office of administrative hearings who is knowledgeable in the laws governing special education and administrative hearings.

~~10-~~ 12. "Individualized education program" means a written statement, as defined in 20 United States Code sections 1401 and 1412, for providing special education and related services to a child with a disability.

~~11-~~ 13. "Individualized education program team" means a team whose task is to develop an appropriate educational program for the child and has the same meaning prescribed in 20 United States Code section 1414.

~~12-~~ 14. "Mental retardation" means a significant impairment of general intellectual functioning that exists concurrently with deficits in adaptive behavior and that adversely affects the child's performance in the educational environment.

~~13-~~ 15. "Mild mental retardation" means performance on standard measures of intellectual and adaptive behavior between two and three standard deviations below the mean for children of the same age.

~~14-~~ 16. "Moderate mental retardation" means performance on standard measures of intellectual and adaptive behavior between three and four standard deviations below the mean for children of the same age.

~~15-~~ 17. "Multidisciplinary evaluation team" means a team of persons including individuals described as the individualized education program team

1 and other qualified professionals who shall determine whether a child is  
2 eligible for special education.

3 ~~16-~~ 18. "Multiple disabilities" means learning and developmental  
4 problems resulting from multiple disabilities as determined by evaluation  
5 pursuant to section 15-766 that cannot be provided for adequately in a  
6 program designed to meet the needs of children with less complex  
7 disabilities. Multiple disabilities include any of the following conditions  
8 that require the provision of special education and related services:

9 (a) Two or more of the following conditions:

10 (i) Hearing impairment.

11 (ii) Orthopedic impairment.

12 (iii) Moderate mental retardation.

13 (iv) Visual impairment.

14 (b) A child with a disability listed in subdivision (a) of this  
15 paragraph existing concurrently with a condition of mild mental retardation,  
16 emotional disability or specific learning disability.

17 ~~17-~~ 19. "Multiple disabilities with severe sensory impairment" means  
18 multiple disabilities that include at least one of the following:

19 (a) Severe visual impairment or severe hearing impairment in  
20 combination with another severe disability.

21 (b) Severe visual impairment and severe hearing impairment.

22 ~~18-~~ 20. "Orthopedic impairment" means one or more severe orthopedic  
23 impairments and includes those that are caused by congenital anomaly, disease  
24 and other causes, such as amputation or cerebral palsy, and that adversely  
25 affect a child's performance in the educational environment.

26 ~~19-~~ 21. "Other health impairments" means limited strength, vitality or  
27 alertness, including a heightened alertness to environmental stimuli, due to  
28 chronic or acute health problems which adversely affect a pupil's educational  
29 performance.

30 ~~20-~~ 22. "Out-of-home care" means the placement of a child with a  
31 disability outside of the home environment and includes twenty-four hour  
32 residential care, group care or foster care on either a full-time or  
33 part-time basis.

34 ~~21-~~ 23. "Parent" means:

35 (a) Either a natural or adoptive parent of a child.

36 (b) A guardian, but not this state if the child is a ward of this  
37 state.

38 (c) A person acting in the place of a natural or adoptive parent with  
39 whom the child lives or a person who is legally responsible for the child's  
40 welfare.

41 (d) A surrogate parent.

42 (e) A foster parent to the extent permitted by state law.

43 ~~22-~~ 24. "Preschool child" means a child who is at least three years of  
44 age but who has not reached the required age for kindergarten, subject to  
45 section 15-771, subsection G.

~~23. "Preschool moderate delay" means performance by a preschool child on a norm-referenced test that measures at least one and one half, but not more than three, standard deviations below the mean for children of the same chronological age in two or more of the following areas:~~

- ~~(a) Cognitive development.~~
- ~~(b) Physical development.~~
- ~~(c) Communication development.~~
- ~~(d) Social or emotional development.~~
- ~~(e) Adaptive development.~~

~~The results of the norm-referenced measure must be corroborated by information from a comprehensive developmental assessment and from parental input, if available, as measured by a judgment based assessment or survey. If there is a discrepancy between the measures, the evaluation team shall determine eligibility based on a preponderance of the information presented.~~

~~24. "Preschool severe delay" means performance by a preschool child on a norm-referenced test that measures more than three standard deviations below the mean for children of the same chronological age in one or more of the following areas:~~

- ~~(a) Cognitive development.~~
- ~~(b) Physical development.~~
- ~~(c) Communication development.~~
- ~~(d) Social or emotional development.~~
- ~~(e) Adaptive development.~~

~~The results of the norm-referenced measure must be corroborated by information from a comprehensive developmental assessment and from parental input, if available, as measured by a judgment based assessment or survey. If there is a discrepancy between the measures, the evaluation team shall determine eligibility based on a preponderance of the information presented.~~

~~25. "Preschool speech/language delay" means performance by a preschool child on a norm-referenced language test that measures at least one and one half standard deviations below the mean for children of the same chronological age or whose speech, out of context, is unintelligible to a listener who is unfamiliar with the child. Eligibility under this paragraph is appropriate only if a comprehensive developmental assessment or norm-referenced assessment and parental input indicate that the child is not eligible for services under another preschool category. The evaluation team shall determine eligibility based on a preponderance of the information presented.~~

~~26.~~ 25. "Prior written notice" means written prior notice that a public educational agency is required to send to parents whenever the public educational agency proposes or refuses to initiate or change the identification, evaluation or educational placement of a child with a disability or the provision of a free appropriate public education.

~~27.~~ 26. "Public educational agency" means a school district, a charter school, an accommodation school, a state supported institution or any other political subdivision of this state that is responsible for providing education to children with disabilities.

~~28.~~ 27. "Related services" means those supportive services, as defined in 20 United States Code section 1401, that are required to assist a child with a disability who is eligible to receive special education services in order for the child to benefit from special education.

~~29.~~ 28. "Residential special education placement" means the placement of a child with a disability in a public or private residential program, as provided in section 15-765, subsection G, in order to provide necessary special education and related services as specified in the child's individualized education program.

~~30.~~ 29. "Severe mental retardation" means performance on standard measures of intellectual and adaptive behavior measures at least four standard deviations below the mean for children of the same age.

~~31.~~ 30. "Special education" means specially designed instruction that meets the unique needs of a child with a disability and that is provided without cost to the parents of the child.

~~32.~~ 31. "Special education referral" means a written request for an evaluation to determine whether a pupil is eligible for special education services that, for referrals not initiated by a parent, includes documentation of appropriate efforts to educate the pupil in the regular education program.

~~33.~~ 32. "Specially designed instruction" means adapting the content, methodology or delivery of instruction to address the unique needs of a child with a disability and to ensure that child's access to the general curriculum as identified in the academic standards adopted by the state board of education.

~~34.~~ 33. "Specific learning disability" has the same meaning prescribed in 20 United States Code section 1401.

~~35.~~ 34. "Speech/language impairment":

(a) ~~FOR A CHILD WHO HAS REACHED THE REQUIRED AGE FOR KINDERGARTEN,~~ means A speech or language impairment as ~~prescribed~~ DEFINED in 34 Code of Federal Regulations section 300.8.

(b) ~~FOR A PRESCHOOL CHILD, MEANS PERFORMANCE ON A NORM-REFERENCED LANGUAGE TEST THAT MEASURES AT LEAST ONE AND ONE-HALF STANDARD DEVIATIONS BELOW THE MEAN FOR CHILDREN OF THE SAME CHRONOLOGICAL AGE OR WHOSE SPEECH, OUT OF CONTEXT, IS UNINTELLIGIBLE TO A LISTENER WHO IS UNFAMILIAR WITH THE CHILD. ELIGIBILITY FOR A PRESCHOOL CHILD UNDER THIS SUBDIVISION IS APPROPRIATE ONLY WHEN A COMPREHENSIVE DEVELOPMENTAL ASSESSMENT AND PARENTAL INPUT INDICATE THAT THE PRESCHOOL CHILD IS NOT ELIGIBLE FOR SERVICES UNDER ANOTHER PRESCHOOL CATEGORY.~~

~~36.~~ 35. "State educational agency" means the Arizona department of education.

~~37.~~ 36. "State placing agency" has the same meaning prescribed in section 15-1181.

~~38.~~ 37. "Surrogate parent" means a person who has been appointed by the court or by the department of education pursuant to section 15-763.01 in order to represent a child in decisions regarding special education.

~~39.~~ 38. "Traumatic brain injury":

(a) Means an acquired injury to the brain that is caused by an external physical force and that results in total or partial functional disability or psychosocial impairment, or both, that adversely affects educational performance.

(b) Applies to open or closed head injuries resulting in mild, moderate or severe impairments in one or more areas, including cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions, information processing and speech.

(c) Does not include brain injuries that are congenital or degenerative or brain injuries induced by birth trauma.

~~40.~~ 39. "Visual impairment" has the same meaning prescribed in 34 Code of Federal Regulations section 300.8.

~~41.~~ 40. "Ward of the state" has the same meaning prescribed in 20 United States Code section 1401.

Sec. 2. Section 15-771, Arizona Revised Statutes, is amended to read:

15-771. ~~Preschool programs for children with disabilities;~~  
definition

A. Each school district shall make available an educational program for preschool children with disabilities who reside in the school district and who are not already receiving services that have been provided through the department of education. The state board of education shall prescribe rules for use by school districts in the provision of educational programs for preschool children with disabilities. School districts are required to make available educational programs for and, for the purposes of calculating average daily attendance and average daily membership, may count only those preschool children who meet the definition of one of the following conditions:

1. Hearing impairment.
2. Visual impairment.
3. ~~Preschool-moderate~~ DEVELOPMENTAL delay.
4. ~~Preschool~~ EARLY CHILDHOOD severe delay.
5. ~~Preschool~~ Speech/language ~~delay~~ IMPAIRMENT.

The school district may make available an educational program for speech or language impaired preschool children whose performance on a standardized language test measures LESS THAN one and one-half standard deviations, ~~or less,~~ below the mean for children of ~~their~~ THE SAME chronological age. The superintendent of public instruction shall prescribe guidelines for the eligibility of speech or language impaired children, except that eligibility



1 under this subsection is appropriate only when a comprehensive developmental  
2 assessment ~~or norm-referenced assessment~~ and parental input indicate that the  
3 child is not eligible for services under another preschool category.

4 B. The state board of education shall annually distribute to school  
5 districts at least ten per cent of the monies it receives under 20 United  
6 States Code section 1411(c)(2) for preschool programs for children with  
7 disabilities. The state board shall prescribe rules for the distribution of  
8 the monies to school districts.

9 C. The governing board of a school district may submit a proposal to  
10 the state board of education as prescribed by the state board to receive  
11 monies for preschool programs for children with disabilities as provided in  
12 this section. A school district which receives monies as provided in this  
13 section shall include the monies in the special projects section of the  
14 budget as provided in section 15-903, subsection F.

15 D. All school districts shall cooperate, if appropriate, with  
16 community organizations that provide services to preschool children with  
17 disabilities in the provision of the district's preschool program for  
18 children with disabilities.

19 E. A school district may not admit a child to a preschool program for  
20 children with disabilities unless the child is evaluated and recommended for  
21 placement as provided in sections 15-766 and 15-767.

22 F. For the purpose of allocating monies pursuant to 20 United States  
23 Code section 1419(g)(1)(B)(i), "jurisdiction" includes high school pupils  
24 whose parents reside within the boundaries of a common school district. The  
25 common school district shall ensure such high school pupils are not counted  
26 by any other school district.

27 G. For THE purposes of this section, "preschool child" means a child  
28 who is at least three years of age but who has not reached the age required  
29 for kindergarten. A preschool child is three years of age as of the date of  
30 the child's third birthday. The governing board of a school district may  
31 admit otherwise eligible children who are within ninety days of their third  
32 birthday, if it is determined to be in the best interest of the individual  
33 child. Children who are admitted to programs for preschool children prior to  
34 their third birthday are entitled to the same provision of services as if  
35 they were three years of age.

36 Sec. 3. Section 15-901, Arizona Revised Statutes, is amended to read:

37 15-901. Definitions

38 A. In this title, unless the context otherwise requires:

39 1. "Average daily attendance" or "ADA" means actual average daily  
40 attendance through the first one hundred days or two hundred days in session,  
41 as applicable.

42 2. "Average daily membership" means the total enrollment of fractional  
43 students and full-time students, minus withdrawals, of each school day  
44 through the first one hundred days or two hundred days in session, as  
45 applicable, for the current year. Withdrawals include students formally

1 withdrawn from schools and students absent for ten consecutive school days,  
2 except for excused absences as identified by the department of education.  
3 For computation purposes, the effective date of withdrawal shall be  
4 retroactive to the last day of actual attendance of the student.

5 (a) "Fractional student" means:

6 (i) For common schools, until fiscal year 2001-2002, a preschool child  
7 who is enrolled in a program for preschool children with disabilities of at  
8 least three hundred sixty minutes each week or a kindergarten student at  
9 least five years of age prior to January 1 of the school year and enrolled in  
10 a school kindergarten program that meets at least three hundred forty-six  
11 instructional hours during the minimum number of days required in a school  
12 year as provided in section 15-341. In fiscal year 2001-2002, the  
13 kindergarten program shall meet at least three hundred forty-eight hours. In  
14 fiscal year 2002-2003, the kindergarten program shall meet at least three  
15 hundred fifty hours. In fiscal year 2003-2004, the kindergarten program  
16 shall meet at least three hundred fifty-two hours. In fiscal year 2004-2005,  
17 the kindergarten program shall meet at least three hundred fifty-four  
18 hours. In fiscal year 2005-2006 and each fiscal year thereafter, the  
19 kindergarten program shall meet at least three hundred fifty-six  
20 hours. Lunch periods and recess periods may not be included as part of the  
21 instructional hours unless the child's individualized education program  
22 requires instruction during those periods and the specific reasons for such  
23 instruction are fully documented. In computing the average daily membership,  
24 preschool children with disabilities and kindergarten students shall be  
25 counted as one-half of a full-time student. For common schools, a part-time  
26 student is a student enrolled for less than the total time for a full-time  
27 student as defined in this section. A part-time common school student shall  
28 be counted as one-fourth, one-half or three-fourths of a full-time student if  
29 the student is enrolled in an instructional program that is at least  
30 one-fourth, one-half or three-fourths of the time a full-time student is  
31 enrolled as defined in subdivision (b) of this paragraph.

32 (ii) For high schools, a part-time student who is enrolled in less  
33 than four subjects that count toward graduation as defined by the state board  
34 of education in a recognized high school and who is taught in less than  
35 twenty instructional hours per week prorated for any week with fewer than  
36 five school days. A part-time high school student shall be counted as  
37 one-fourth, one-half or three-fourths of a full-time student if the student  
38 is enrolled in an instructional program that is at least one-fourth, one-half  
39 or three-fourths of a full-time instructional program as defined in  
40 subdivision (c) of this paragraph.

41 (b) "Full-time student" means:

42 (i) For common schools, a student who is at least six years of age  
43 prior to January 1 of a school year, who has not graduated from the highest  
44 grade taught in the school district and who is regularly enrolled in a course  
45 of study required by the state board of education. Until fiscal year

1 2001-2002, first, second and third grade students, ungraded students at least  
2 six, but under nine, years of age by September 1 or ungraded group B children  
3 with disabilities who are at least five, but under six, years of age by  
4 September 1 must be enrolled in an instructional program that meets for a  
5 total of at least six hundred ninety-two hours during the minimum number of  
6 days required in a school year as provided in section 15-341. In fiscal year  
7 2001-2002, the program shall meet at least six hundred ninety-six hours. In  
8 fiscal year 2002-2003, the program shall meet at least seven hundred  
9 hours. In fiscal year 2003-2004, the program shall meet at least seven  
10 hundred four hours. In fiscal year 2004-2005, the program shall meet at  
11 least seven hundred eight hours. In fiscal year 2005-2006 and in each fiscal  
12 year thereafter, the program shall meet at least seven hundred twelve  
13 hours. Until fiscal year 2001-2002, fourth, fifth and sixth grade students  
14 or ungraded students at least nine, but under twelve, years of age by  
15 September 1 must be enrolled in an instructional program that meets for a  
16 total of at least eight hundred sixty-five hours during the minimum number of  
17 school days required in a school year as provided in section 15-341. In  
18 fiscal year 2001-2002, the program shall meet at least eight hundred seventy  
19 hours. In fiscal year 2002-2003, the program shall meet at least eight  
20 hundred seventy-five hours. In fiscal year 2003-2004, the program shall meet  
21 at least eight hundred eighty hours. In fiscal year 2004-2005, the program  
22 shall meet at least eight hundred eighty-five hours. In fiscal year  
23 2005-2006 and each fiscal year thereafter, the program shall meet at least  
24 eight hundred ninety hours. Until fiscal year 2001-2002, seventh and eighth  
25 grade students or ungraded students at least twelve, but under fourteen,  
26 years of age by September 1 must be enrolled in an instructional program that  
27 meets for a total of at least one thousand thirty-eight hours during the  
28 minimum number of days required in a school year as provided in section  
29 15-341. In fiscal year 2001-2002, the program shall meet at least one  
30 thousand forty-four hours. In fiscal year 2002-2003, the program shall meet  
31 at least one thousand fifty hours. In fiscal year 2003-2004, the program  
32 shall meet at least one thousand fifty-six hours. In fiscal year 2004-2005,  
33 the program shall meet at least one thousand sixty-two hours. In fiscal year  
34 2005-2006 and each fiscal year thereafter, the program shall meet at least  
35 one thousand sixty-eight hours. Lunch periods and recess periods may not be  
36 included as part of the instructional hours unless the student is a child  
37 with a disability and the child's individualized education program requires  
38 instruction during those periods and the specific reasons for such  
39 instruction are fully documented.

40 (ii) For high schools, except as provided in section 15-105, a student  
41 not graduated from the highest grade taught in the school district, or an  
42 ungraded student at least fourteen years of age by September 1, and enrolled  
43 in at least a full-time instructional program of subjects that count toward  
44 graduation as defined by the state board of education in a recognized high

1 school. A full-time student shall not be counted more than once for  
2 computation of average daily membership.

3 (iii) For homebound or hospitalized, a student receiving at least four  
4 hours of instruction per week.

5 (c) "Full-time instructional program" means:

6 (i) Through fiscal year 2000-2001, at least four subjects, each of  
7 which, if taught each school day for the minimum number of days required in a  
8 school year, would meet a minimum of one hundred twenty hours a year, or the  
9 equivalent, or one or more subjects taught in amounts of time totaling at  
10 least twenty hours per week prorated for any week with fewer than five school  
11 days.

12 (ii) For fiscal year 2001-2002, an instructional program that meets at  
13 least a total of seven hundred four hours during the minimum number of days  
14 required and includes at least four subjects each of which, if taught each  
15 school day for the minimum number of days required in a school year, would  
16 meet a minimum of one hundred twenty-two hours a year, or the equivalent, or  
17 one or more subjects taught in amounts of time totaling at least twenty hours  
18 per week prorated for any week with fewer than five school days.

19 (iii) For fiscal year 2002-2003, an instructional program that meets  
20 at least a total of seven hundred eight hours during the minimum number of  
21 days required and includes at least four subjects each of which, if taught  
22 each school day for the minimum number of days required in a school year,  
23 would meet a minimum of one hundred twenty-two hours a year, or the  
24 equivalent, or one or more subjects taught in amounts of time totaling at  
25 least twenty hours per week prorated for any week with fewer than five school  
26 days.

27 (iv) For fiscal year 2003-2004, an instructional program that meets at  
28 least a total of seven hundred twelve hours during the minimum number of days  
29 required and includes at least four subjects each of which, if taught each  
30 school day for the minimum number of days required in a school year, would  
31 meet a minimum of one hundred twenty-three hours a year, or the equivalent,  
32 or one or more subjects taught in amounts of time totaling at least twenty  
33 hours per week prorated for any week with fewer than five school days.

34 (v) For fiscal year 2004-2005, an instructional program that meets at  
35 least a total of seven hundred sixteen hours during the minimum number of  
36 days required and includes at least four subjects each of which, if taught  
37 each school day for the minimum number of days required in a school year,  
38 would meet a minimum of one hundred twenty-three hours a year, or the  
39 equivalent, or one or more subjects taught in amounts of time totaling at  
40 least twenty hours per week prorated for any week with fewer than five school  
41 days.

42 (vi) For fiscal year 2005-2006 and each fiscal year thereafter, an  
43 instructional program that meets at least a total of seven hundred twenty  
44 hours during the minimum number of days required and includes at least four  
45 subjects each of which, if taught each school day for the minimum number of

1 days required in a school year, would meet a minimum of one hundred  
2 twenty-three hours a year, or the equivalent, or one or more subjects taught  
3 in amounts of time totaling at least twenty hours per week prorated for any  
4 week with fewer than five school days.

5 3. "Budget year" means the fiscal year for which the school district  
6 is budgeting and which immediately follows the current year.

7 4. "Common school district" means a political subdivision of this  
8 state offering instruction to students in programs for preschool children  
9 with disabilities and kindergarten programs and grades one through eight.

10 5. "Current year" means the fiscal year in which a school district is  
11 operating.

12 6. "Daily attendance" means:

13 (a) For common schools, days in which a pupil:

14 (i) Of a kindergarten program or ungraded, but not group B children  
15 with disabilities, and at least five, but under six, years of age by  
16 September 1 attends at least three-quarters of the instructional time  
17 scheduled for the day. If the total instruction time scheduled for the year  
18 is at least three hundred forty-six hours but is less than six hundred  
19 ninety-two hours such attendance shall be counted as one-half day of  
20 attendance. If the instructional time scheduled for the year is at least six  
21 hundred ninety-two hours, "daily attendance" means days in which a pupil  
22 attends at least one-half of the instructional time scheduled for the day.  
23 Such attendance shall be counted as one-half day of attendance.

24 (ii) Of the first, second or third grades, ungraded and at least six,  
25 but under nine, years of age by September 1 or ungraded group B children with  
26 disabilities and at least five, but under six, years of age by September 1  
27 attends more than three-quarters of the instructional time scheduled for the  
28 day.

29 (iii) Of the fourth, fifth or sixth grades or ungraded and at least  
30 nine, but under twelve, years of age by September 1 attends more than  
31 three-quarters of the instructional time scheduled for the day, except as  
32 provided in section 15-797.

33 (iv) Of the seventh or eighth grades or ungraded and at least twelve,  
34 but under fourteen, years of age by September 1 attends more than  
35 three-quarters of the instructional time scheduled for the day, except as  
36 provided in section 15-797.

37 (b) For common schools, the attendance of a pupil at three-quarters or  
38 less of the instructional time scheduled for the day shall be counted as  
39 follows, except as provided in section 15-797 and except that attendance for  
40 a fractional student shall not exceed the pupil's fractional membership:

41 (i) If attendance for all pupils in the school is based on quarter  
42 days, the attendance of a pupil shall be counted as one-fourth of a day's  
43 attendance for each one-fourth of full-time instructional time attended.

44 (ii) If attendance for all pupils in the school is based on half days,  
45 the attendance of at least three-quarters of the instructional time scheduled

1 for the day shall be counted as a full day's attendance and attendance at a  
2 minimum of one-half but less than three-quarters of the instructional time  
3 scheduled for the day equals one-half day of attendance.

4 (c) For common schools, the attendance of a preschool child with  
5 disabilities shall be counted as one-fourth day's attendance for each  
6 thirty-six minutes of attendance not including lunch periods and recess  
7 periods, except as provided in paragraph 2, subdivision (a), item (i) of this  
8 subsection for children with disabilities up to a maximum of three hundred  
9 sixty minutes each week.

10 (d) For high schools or ungraded schools in which the pupil is at  
11 least fourteen years of age by September 1, the attendance of a pupil shall  
12 not be counted as a full day unless the pupil is actually and physically in  
13 attendance and enrolled in and carrying four subjects, each of which, if  
14 taught each school day for the minimum number of days required in a school  
15 year, would meet a minimum of one hundred twenty hours a year, or the  
16 equivalent, that count toward graduation in a recognized high school except  
17 as provided in section 15-797 and subdivision (e) of this paragraph.  
18 Attendance of a pupil carrying less than the load prescribed shall be  
19 prorated.

20 (e) For high schools or ungraded schools in which the pupil is at  
21 least fourteen years of age by September 1, the attendance of a pupil may be  
22 counted as one-fourth of a day's attendance for each sixty minutes of  
23 instructional time in a subject that counts toward graduation, except that  
24 attendance for a pupil shall not exceed the pupil's full or fractional  
25 membership.

26 (f) For homebound or hospitalized, a full day of attendance may be  
27 counted for each day during a week in which the student receives at least  
28 four hours of instruction.

29 (g) For school districts which maintain school for an approved  
30 year-round school year operation, attendance shall be based on a computation,  
31 as prescribed by the superintendent of public instruction, of the one hundred  
32 eighty days' equivalency or two hundred days' equivalency, as applicable, of  
33 instructional time as approved by the superintendent of public instruction  
34 during which each pupil is enrolled.

35 7. "Daily route mileage" means the sum of:

36 (a) The total number of miles driven daily by all buses of a school  
37 district while transporting eligible students from their residence to the  
38 school of attendance and from the school of attendance to their residence on  
39 scheduled routes approved by the superintendent of public instruction.

40 (b) The total number of miles driven daily on routes approved by the  
41 superintendent of public instruction for which a private party, a political  
42 subdivision or a common or a contract carrier is reimbursed for bringing an  
43 eligible student from the place of his residence to a school transportation  
44 pickup point or to the school of attendance and from the school  
45 transportation scheduled return point or from the school of attendance to his

1 residence. Daily route mileage includes the total number of miles necessary  
2 to drive to transport eligible students from and to their residence as  
3 provided in this paragraph.

4 8. "District support level" means the base support level plus the  
5 transportation support level.

6 9. "Eligible students" means:

7 (a) Students who are transported by or for a school district and who  
8 qualify as full-time students or fractional students, except students for  
9 whom transportation is paid by another school district or a county school  
10 superintendent, and:

11 (i) For common school students, whose place of actual residence within  
12 the school district is more than one mile from the school facility of  
13 attendance or students who are admitted pursuant to section 15-816.01 and who  
14 meet the economic eligibility requirements established under the national  
15 school lunch and child nutrition acts (42 United States Code sections 1751  
16 through 1785) for free or reduced price lunches and whose actual place of  
17 residence outside the school district boundaries is more than one mile from  
18 the school facility of attendance.

19 (ii) For high school students, whose place of actual residence within  
20 the school district is more than one and one-half miles from the school  
21 facility of attendance or students who are admitted pursuant to section  
22 15-816.01 and who meet the economic eligibility requirements established  
23 under the national school lunch and child nutrition acts (42 United States  
24 Code sections 1751 through 1785) for free or reduced price lunches and whose  
25 actual place of residence outside the school district boundaries is more than  
26 one and one-half miles from the school facility of attendance.

27 (b) Kindergarten students, for purposes of computing the number of  
28 eligible students under subdivision (a), item (i) of this paragraph, shall be  
29 counted as full-time students, notwithstanding any other provision of law.

30 (c) Children with disabilities, as defined by section 15-761, who are  
31 transported by or for the school district or who are admitted pursuant to  
32 chapter 8, article 1.1 of this title and who qualify as full-time students or  
33 fractional students regardless of location or residence within the school  
34 district or children with disabilities whose transportation is required by  
35 the pupil's individualized education program.

36 (d) Students whose residence is outside the school district and who  
37 are transported within the school district on the same basis as students who  
38 reside in the school district.

39 10. "Enrolled" or "enrollment" means when a pupil is currently  
40 registered in the school district.

41 11. "GDP price deflator" means the average of the four implicit price  
42 deflators for the gross domestic product reported by the United States  
43 department of commerce for the four quarters of the calendar year.

12. "High school district" means a political subdivision of this state offering instruction to students for grades nine through twelve or that portion of the budget of a common school district which is allocated to teaching high school subjects with permission of the state board of education.

13. "Revenue control limit" means the base revenue control limit plus the transportation revenue control limit.

14. "Student count" means average daily membership as prescribed in this subsection for the fiscal year prior to the current year, except that for the purpose of budget preparation student count means average daily membership as prescribed in this subsection for the current year.

15. "Submit electronically" means submitted in a format and in a manner prescribed by the department of education.

16. "Total bus mileage" means the total number of miles driven by all buses of a school district during the school year.

17. "Total students transported" means all eligible students transported from their place of residence to a school transportation pickup point or to the school of attendance and from the school of attendance or from the school transportation scheduled return point to their place of residence.

18. "Unified school district" means a political subdivision of the state offering instruction to students in programs for preschool children with disabilities and kindergarten programs and grades one through twelve.

B. In this title, unless the context otherwise requires:

1. "Base" means the revenue level per student count specified by the legislature.

2. "Base level" means:

(a) For fiscal year 2007-2008, three thousand two hundred twenty-six dollars eighty-eight cents.

(b) For fiscal year 2008-2009, three thousand two hundred ninety-one dollars forty-two cents.

3. "Base revenue control limit" means the base revenue control limit computed as provided in section 15-944.

4. "Base support level" means the base support level as provided in section 15-943.

5. "Certified teacher" means a person who is certified as a teacher pursuant to the rules adopted by the state board of education, who renders direct and personal services to school children in the form of instruction related to the school district's educational course of study and who is paid from the maintenance and operation section of the budget.

6. "DD" MEANS PROGRAMS FOR CHILDREN WHO ARE AT LEAST THREE YEARS OF AGE BUT UNDER TEN YEARS OF AGE WITH DEVELOPMENTAL DELAYS. A PRESCHOOL CHILD WHO IS CATEGORIZED UNDER THIS PARAGRAPH IS NOT ELIGIBLE TO RECEIVE FUNDING PURSUANT TO SECTION 15-943, PARAGRAPH 2, SUBDIVISION (b).



1           7. "ECSD" MEANS PROGRAMS FOR CHILDREN WITH EARLY CHILDHOOD SEVERE  
2 DELAY AS PRESCRIBED BY SECTION 15-771.

3           ~~6-~~ 8. "ED, MIMR, SLD, SLI and OHI" means programs for children with  
4 emotional disabilities, mild mental retardation, a specific learning  
5 disability, a speech/language impairment and other health impairments. A  
6 PRESCHOOL CHILD WHO IS CATEGORIZED AS SLI UNDER THIS PARAGRAPH IS NOT  
7 ELIGIBLE TO RECEIVE FUNDING PURSUANT TO SECTION 15-943, PARAGRAPH 2,  
8 SUBDIVISION (b).

9           ~~7-~~ 9. "ED-P" means programs for children with emotional disabilities  
10 who are enrolled in private special education programs as prescribed in  
11 section 15-765, subsection D, paragraph 1 or in an intensive school district  
12 program as provided in section 15-765, subsection D, paragraph 2.

13           ~~8-~~ 10. "ELL" means English learners who do not speak English or whose  
14 native language is not English, who are not currently able to perform  
15 ordinary classroom work in English and who are enrolled in an English  
16 language education program pursuant to sections 15-751, 15-752 and 15-753.

17           ~~9-~~ 11. "Full-time equivalent certified teacher" or "FTE certified  
18 teacher" means for a certified teacher the following:

19           (a) If employed full time as defined in section 15-501, 1.00.

20           (b) If employed less than full time, multiply 1.00 by the percentage  
21 of a full school day, or its equivalent, or a full class load, or its  
22 equivalent, for which the teacher is employed as determined by the governing  
23 board.

24           ~~10-~~ 12. "Group A" means educational programs for career exploration, a  
25 specific learning disability, an emotional disability, mild mental  
26 retardation, remedial education, a speech/language impairment, DEVELOPMENT  
27 DELAY, homebound, bilingual, ~~preschool—moderate—delay, preschool~~  
28 ~~speech/language delay,~~ other health impairments and gifted pupils.

29           ~~11-~~ 13. "Group B" means educational improvements for pupils in  
30 kindergarten programs and grades one through three, educational programs for  
31 autism, a hearing impairment, moderate mental retardation, multiple  
32 disabilities, multiple disabilities with severe sensory impairment,  
33 orthopedic impairments, ~~preschool~~ EARLY CHILDHOOD severe delay, DEVELOPMENTAL  
34 DELAY, severe mental retardation and emotional disabilities for school age  
35 pupils enrolled in private special education programs or in school district  
36 programs for children with severe disabilities or visual impairment and  
37 English learners enrolled in a program to promote English language  
38 proficiency pursuant to section 15-752.

39           ~~12-~~ 14. "HI" means programs for pupils with hearing impairment.

40           ~~13-~~ 15. "Homebound" or "hospitalized" means a pupil who is capable of  
41 profiting from academic instruction but is unable to attend school due to  
42 illness, disease, accident or other health conditions, who has been examined  
43 by a competent medical doctor and who is certified by that doctor as being  
44 unable to attend regular classes for a period of not less than three school  
45 months or a pupil who is capable of profiting from academic instruction but

1 is unable to attend school regularly due to chronic or acute health problems,  
 2 who has been examined by a competent medical doctor and who is certified by  
 3 that doctor as being unable to attend regular classes for intermittent  
 4 periods of time totaling three school months during a school year. The  
 5 medical certification shall state the general medical condition, such as  
 6 illness, disease or chronic health condition, that is the reason that the  
 7 pupil is unable to attend school. Homebound or hospitalized includes a  
 8 student who is unable to attend school for a period of less than three months  
 9 due to a pregnancy if a competent medical doctor, after an examination,  
 10 certifies that the student is unable to attend regular classes due to risk to  
 11 the pregnancy or to the student's health.

12 ~~14.~~ 16. "K" means kindergarten programs.

13 ~~15.~~ 17. "K-3" means kindergarten programs and grades one through  
 14 three.

15 ~~16.~~ 18. "MD-R, A-R and SMR-R" means resource programs for pupils with  
 16 multiple disabilities, autism and severe mental retardation.

17 ~~17.~~ 19. "MD-SC, A-SC and SMR-SC" means self-contained programs for  
 18 pupils with multiple disabilities, autism and severe mental retardation.

19 ~~18.~~ 20. "MDSSI" means a program for pupils with multiple disabilities  
 20 with severe sensory impairment.

21 ~~19.~~ 21. "MOMR" means programs for pupils with moderate mental  
 22 retardation.

23 ~~20.~~ 22. "OI-R" means a resource program for pupils with orthopedic  
 24 impairments.

25 ~~21.~~ 23. "OI-SC" means a self-contained program for pupils with  
 26 orthopedic impairments.

27 ~~22.~~ 24. "PSD" means preschool programs for children with disabilities  
 28 as provided in section 15-771.

29 ~~23. "P-SD" means programs for children who meet the definition of~~  
 30 ~~preschool severe delay as provided in section 15-771.~~

31 ~~24.~~ 25. "Qualifying tax rate" means the qualifying tax rate specified  
 32 in section 15-971 applied to the assessed valuation used for primary property  
 33 taxes.

34 ~~25.~~ 26. "Small isolated school district" means a school district which  
 35 meets all of the following:

36 (a) Has a student count of fewer than six hundred in kindergarten  
 37 programs and grades one through eight or grades nine through twelve.

38 (b) Contains no school which is fewer than thirty miles by the most  
 39 reasonable route from another school, or, if road conditions and terrain make  
 40 the driving slow or hazardous, fifteen miles from another school which  
 41 teaches one or more of the same grades and is operated by another school  
 42 district in this state.

43 (c) Is designated as a small isolated school district by the  
 44 superintendent of public instruction.

~~26-~~ 27. "Small school district" means a school district which meets all of the following:

(a) Has a student count of fewer than six hundred in kindergarten programs and grades one through eight or grades nine through twelve.

(b) Contains at least one school which is fewer than thirty miles by the most reasonable route from another school which teaches one or more of the same grades and is operated by another school district in this state.

(c) Is designated as a small school district by the superintendent of public instruction.

~~27-~~ 28. "Transportation revenue control limit" means the transportation revenue control limit computed as prescribed in section 15-946.

~~28-~~ 29. "Transportation support level" means the support level for pupil transportation operating expenses as provided in section 15-945.

~~29-~~ 30. "VI" means programs for pupils with visual impairments.

~~30-~~ 31. "Voc. Ed." means career and technical education and vocational education programs, as defined in section 15-781.

Sec. 4. Section 15-943, Arizona Revised Statutes, is amended to read:

~~15-943.~~ Base support level

The base support level for each school district shall be computed as follows:

1. The following support level weights shall be used in paragraph 2, subdivision (a) OF THIS SECTION for the following school districts:

(a) For school districts whose student count in kindergarten programs and grades one through eight is classified in column 1 of this subdivision, the support level weight for kindergarten programs and grades one through eight is the corresponding support level weight prescribed in column 2 or 3 of this subdivision, whichever is appropriate:

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>
	Support Level Weight For Small Isolated	Support Level Weight For Small
<u>Student Count</u>	<u>School Districts</u>	<u>School Districts</u>
1-99	1.559	1.399
100-499	$1.358 + [0.0005 \times (500 - \text{student count})]$	$1.278 + [0.0003 \times (500 - \text{student count})]$
500-599	$1.158 + [0.002 \times (600 - \text{student count})]$	$1.158 + [0.0012 \times (600 - \text{student count})]$

(b) For school districts whose student count in grades nine through twelve is classified in column 1 of this subdivision, the support level weight for grades nine through twelve is the corresponding support level weight prescribed in column 2 or 3 of this subdivision, whichever is appropriate:

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>
	Support Level Weight	Support Level Weight
	For Small Isolated	For Small
<u>Student Count</u>	<u>School Districts</u>	<u>School Districts</u>
1-99	1.669	1.559
100-499	$1.468 + [0.0005 \times (500 - \text{student count})]$	$1.398 + [0.0004 \times (500 - \text{student count})]$
500-599	$1.268 + [0.002 \times (600 - \text{student count})]$	$1.268 + [0.0013 \times (600 - \text{student count})]$
2. Subject to paragraph 1 OF THIS SECTION, determine the weighted student count as follows:		
(a)		
<u>Grade Base</u>	<u>Support Level Weight</u>	<u>Weighted Student Count</u>
<u>Group A</u>	<u>Student Count</u>	
PSD 1.000 + 0.450 = 1.450 x _____		
K-8 1.000 + 0.158 = 1.158 x _____		
9-12 1.163 + 0.105 = 1.268 x _____		
	Subtotal	A
(b)		
<u>Funding Category</u>	<u>Support Level Weight</u>	<u>Weighted Student Count</u>
HI	4.771 x _____	
K, for fiscal year 2006-2007	0.835 x _____	
K, for fiscal year 2007-2008 and each fiscal year thereafter	1.352 x _____	
K-3	0.060 x _____	
ELL	0.115 x _____	
MD-R, A-R and SMR-R	6.024 x _____	
MD-SC, A-SC and SMR-SC	5.833 x _____	
MD-SSI	7.947 x _____	
OI-R	3.158 x _____	
OI-SC	6.773 x _____	
<del>P-SD</del> ECSD	3.595 x _____	
DD, ED, MIMR, SLD,		
SLI and OHI	0.003 x _____	
ED-P	4.822 x _____	

1	MOMR	4.421	x	_____	=	_____
2	VI	4.806	x	_____	=	_____
3		Subtotal			B	_____

4 (c) Total of subtotals A and B: \_\_\_\_\_

5 3. Multiply the total determined in paragraph 2 OF THIS SECTION by the

6 base level.

7 4. Multiply the teacher experience index of the district or 1.00,

8 whichever is greater, by the product obtained in paragraph 3 OF THIS SECTION.

9 5. Add the amount determined in section 15-910.04.

10 Sec. 5. Section 15-948, Arizona Revised Statutes, is amended to read:

11 15-948. Adjustment for growth in student count

12 A. Any school district may DETERMINE, after the first one hundred days

13 or two hundred days in session, as applicable, of the current year, ~~determine~~

14 if it is eligible to increase its revenue control limit and district support

15 level for the current year due to growth in the student population as

16 follows:

17 1. Determine the student count used for calculating the base support

18 level for the current year.

19 2. Determine the average daily membership or adjusted average daily

20 membership, whichever is applicable, through the first one hundred days or

21 two hundred days in session, as applicable, of the current year.

22 3. Subtract the amount determined in paragraph 1 of this subsection

23 from the amount determined in paragraph 2 of this subsection.

24 4. If the amount determined in paragraph 2 of this subsection is

25 greater than the amount determined in paragraph 1 of this subsection, the

26 governing board of the school district may compute an increase to its revenue

27 control limit and district support level for the current year.

28 B. A school district may DETERMINE, after the first one hundred days

29 or two hundred days in session, as applicable, of the current year, ~~determine~~

30 if it is eligible to compute an increase to its revenue control limit for the

31 current year due to growth in the number of pupils in the group B categories

32 of moderate or severe mental retardation, visual impairment, hearing

33 impairment, multiple disabilities, ~~multiple disabilities with severe sensory~~

34 ~~impairment, orthopedic impairment, preschool~~ EARLY CHILDHOOD severe delay,

35 DEVELOPMENTAL DELAY and emotionally disabled pupils enrolled in private

36 special education programs or in school district programs for pupils with

37 severe disabilities as follows:

38 1. Determine the weighted student count for all group B children with

39 disabilities used for calculating the base support level for the current

40 year.

41 2. Determine the weighted average daily membership for all group B

42 children with disabilities through the first one hundred days or two hundred

43 days in session, as applicable, of the current year.

44 3. Subtract the amount determined in paragraph 1 of this subsection

45 from the amount determined in paragraph 2 of this subsection.

4. If the amount determined in paragraph 2 of this subsection is greater than the amount determined in paragraph 1 of this subsection, the governing board of the school district may compute an increase to its revenue control limit and district support level for the current year by using the amount determined in paragraph 3 of this subsection for the weighted student count and the base level for the district for the current year.

C. If a school district meets the criteria specified in subsection A or B of this section, or both, the governing board of the school district ~~may~~, after notice is given and a public hearing held as provided in section 15-905, subsection D, at any time prior to May 15 MAY revise its budget to include the increase in its revenue control limit and district support level for the current year utilizing the procedure prescribed in subsection A or B of this section, or both. Not later than May 18, the budget as revised shall be submitted electronically to the superintendent of public instruction.

D. If the revised budget is adopted by the governing board at the public hearing and submitted electronically as provided in subsection C of this section, the school district shall receive state aid based upon the adjusted revenue control limit or the adjusted district support level in the manner specified in section 15-971, except that in no event shall the school district receive less state aid than it would have received if it had not used this section.

E. If the adjusted revenue control limit results in an expenditure of funds in excess of school district revenues for the current year, the county school superintendent shall include within the revenue estimate for the budget year funds necessary to meet the liabilities incurred by the school district in the current year in excess of revenues received for the current year.

Sec. 6. Section 43-1089, Arizona Revised Statutes, is amended to read:

43-1089. Credit for contributions to school tuition organization; definitions

A. A credit is allowed against the taxes imposed by this title for the amount of voluntary cash contributions made by the taxpayer during the taxable year to a school tuition organization, but not exceeding:

1. Five hundred dollars in any taxable year for a single individual or a head of household.

2. Eight hundred twenty-five dollars in taxable year 2005 for a married couple filing a joint return.

3. One thousand dollars in taxable year 2006 and any subsequent TAXABLE year for a married couple filing a joint return.

B. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax credit that would have been allowed for a joint return.

C. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry the amount of the claim not used to offset the taxes under this title forward for not more than five consecutive taxable years' income tax liability.

D. The credit allowed by this section is in lieu of any deduction pursuant to section 170 of the internal revenue code and taken for state tax purposes.

E. The tax credit is not allowed if the taxpayer designates the taxpayer's contribution to the school tuition organization for the direct benefit of any dependent of the taxpayer.

F. A school tuition organization that receives a voluntary cash contribution pursuant to subsection A shall report to the department, in a form prescribed by the department, by February 28 of each year the following information:

1. The name, address and contact name of the school tuition organization.

2. The total number of contributions received during the previous calendar year.

3. The total dollar amount of contributions received during the previous calendar year.

4. The total number of children awarded educational scholarships or tuition grants during the previous calendar year.

5. The total dollar amount of educational scholarships and tuition grants awarded during the previous calendar year.

6. For each school to which educational scholarships or tuition grants were awarded:

(a) The name and address of the school.

(b) The number of educational scholarships and tuition grants awarded during the previous calendar year.

(c) The total dollar amount of educational scholarships and tuition grants awarded during the previous calendar year.

G. For the purposes of this section:

1. "Handicapped student" means a student who has any of the following conditions:

(a) Hearing impairment.

(b) Visual impairment.

(c) ~~Preschool-moderate~~ DEVELOPMENTAL delay.

(d) ~~Preschool~~ EARLY CHILDHOOD severe delay.

(e) ~~Preschool~~ Speech ~~or~~/language ~~delay~~ IMPAIRMENT.

2. "Qualified school" means a nongovernmental primary school or secondary school or a preschool for handicapped students that is located in this state, that does not discriminate on the basis of race, color, handicap, familial status or national origin and that satisfies the requirements prescribed by law for private schools in this state on January 1, 1997.

1           3. "School tuition organization" means a charitable organization in  
2 this state that is exempt from federal taxation under section 501(c)(3) of  
3 the internal revenue code and that allocates at least ninety per cent of its  
4 annual revenue for educational scholarships or tuition grants to children to  
5 allow them to attend any qualified school of their parents' choice. In  
6 addition, to qualify as a school tuition organization the charitable  
7 organization shall provide educational scholarships or tuition grants to  
8 students without limiting availability to only students of one school.